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SIPDIS
DEPARTMENT FOR EEB/IFD/OIA (HEATHER GOETHERT AND
KIMBERLY BUTLER) AND L/CID (PATRICK PEARSALL)

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TAGS: [CASC](#) [EINV](#) [KIDE](#) [OPIC](#) [UZ](#)
SUBJECT: 2009 REPORT ON INVESTMENT DISPUTES AND EXPROPRIATION CASES:
EMBASSY TASHKENT SUBMISSION

REF: STATE 49477

¶1. (U) The United States Government is aware of six
(6) claims of United States persons against the
Government of Uzbekistan (GOU).

¶2. (U) a. Claimant A

b. 2002

c. Claimant A was the chief operator of a soft drink manufacturing plant in Uzbekistan after its independence in 1991. However, the Claimant alleges that following a personal dispute between one of the owners of the Claimant and the daughter of a high official of the Government, the Claimant executives were all forced to leave the country and have not been allowed to return or to conduct business in Uzbekistan. Following prolonged proceedings in the Tashkent Economic Court and Supreme Court, the Claimants shares in the bottling plant were reduced, making a large U.S. soft drink corporation the major shareholder and operator of the bottling plant rather than the Claimant. In addition, the GOU confiscated many assets of the Claimant, including 600,000 tons of sugar, 120 cars, 70 computers, and the Sergeli wholesale supermarket, which had been another large investment of the Claimant. The GOU has explained these confiscations as the result of convictions for tax violations. Finally, a number of employees of the Claimant were arrested. The U.S. Government has made representations to the GOU to ensure fair treatment for the Claimant. The Embassys last contact with the Claimant regarding the dispute was in 2003, but the Department of State received requests for information about factual issues related to this dispute as late as November 2007, suggesting that it may be ongoing. The Claimant has left Uzbekistan.

¶3. (U) a. Claimant B

b. 2001

c. According to Claimant B, it has been growing and exporting cotton in Uzbekistan since 1997. The companys investment is partially funded by the World Bank. The Seed Law of Uzbekistan guaranteed it the right to export its product, but according to the Claimant, it has been forced to surrender all or part of its hard currency earnings for exchange to soum at the official rate since 1999. In addition, Customs officials have often detained cotton export shipments and disregarded agreements

reached under the Seed Law of Uzbekistan. The GOU has reduced the acreage the Claimant is allowed to plant in high-yield seed varieties from just over 10,000 hectares in 1999, to 8,000 hectares in 2001 and then to 5,700 hectares in 2003. Local GOU authorities are interfering in the management of the Claimants farms by keeping farmers under state production plans, even though the original business plan, approved by the GOU, states the companys farms are exempt from state orders. According to the Claimant, continued obstruction by the GOU has made it impossible for it to repay millions of dollars in loans and will lead to its insolvency.

The Embassy successfully utilized the visit of Senator Richard Shelby in January 2002 to force the GOU to focus on a resolution of problems for the Claimant. The Embassy arranged a meeting between Senator Shelby and Elyor Ganiev, Deputy Prime Minister for the Agency for Foreign Economic Relations. The Claimants Managing Director and Ganiev also met to determine a way for the Claimant to pay back the USD 4.3 million it owes to an Alabama bank. The U.S. Government has assisted the Claimant as appropriate, and the Claimant has been able to repay the Alabama bank and continue its cotton project. Also, the surrender requirement is not the punishment it once was, as the unification of currency rates has diminished the negative impact of this requirement. At that time, the

Claimant was able, with U.S. Government assistance, to negotiate additional cotton acreage to use in its business and continue payment on its outstanding loan.

Unfortunately, in May 2005, the Government of Uzbekistan sent a team of inspectors, headed by the National Security Service, to investigate the Claimants company. The Claimant perceived this as unwarranted harassment stemming from familial ties with Uzbek opposition politicians. The Embassy assisted the Claimant in addressing this issue by requesting a meeting with GOU officials and sending Embassy officers as observers during the National Security Service Investigation. The Prosecutors Office nonetheless subsequently brought criminal charges against the company, freezing its operations and accounts, and the GOU physically blocked the factory from receiving raw cotton. However, in early 2006, the Claimants fortunes turned when it partnered with a local company.

In 2008 the Claimant alleged that local authorities in the Tashkent Region were still obstructing access to the originally agreed 10,000 hectares of raw cotton input. This in turn was preventing the Claimant from servicing the \$8 million loan from the GOU that it had taken in 1998. (The GOU, in turn, had taken these funds from a larger World Bank loan.) In September, 2008, the U.S. Embassy assisted the Claimant in arranging a meeting to discuss these issues with Deputy Finance Minister Erkin Tursunov. The Claimant subsequently reported that the situation has improved, that it is receiving a larger quantity of cotton input, and that it is making progress in servicing its GOU loan.

The Embassy continues to monitor the situation and has regular contact with Claimant B. The Embassy last spoke with the Claimant on May 21, 2009.

14. (U) a. Claimant C

b. 2002

c. Claimant C provided agriculture chemicals to the GOU in 2001 in accordance with a government-issued tender in the amount of \$340,000. The Claimant asserts that it has never been paid for the products. In February 2003, the Ambassador sent a letter to Prime Minister Sultanov regarding this case and in 2004 the U.S. Government approached high-level GOU officials to assist the Claimant in resolving the payment dispute. The Embassy pointed out on numerous occasions that if the GOU does not resolve this issue, other companies may be reluctant to invest in the agricultural sector. Assistant Secretary of Commerce William Lash III raised the Claimants dispute with Deputy Prime Minister Rustam Azimov in November 2004, advising the Deputy Prime Minister that refusing to meet commercial obligations will lead other businesses to avoid Uzbekistan. As of the Embassys last contact with the Claimant in 2005, payment had yet to be rendered. The Claimant has not been in contact with the Embassy since 2005 and does not have an office in Uzbekistan.

15. (U) a. Claimant D

b. 2003

c. Similar to the issue faced by Claimant C, Claimant D provided agricultural chemicals to the GOU in 2001 in the amount of \$245,000 and asserted that it was not paid. In February 2003, the Ambassador sent a letter to Prime Minister Sultanov regarding this case and in 2004, the U.S. Government approached high-level GOU officials to assist the Claimant in resolving the payment dispute. The Embassy has raised this issue with GOU officials, pointing out that it hampers their ability to attract investment to the agricultural sector. Assistant Secretary of Commerce William

Lash III raised the Claimants dispute with Deputy Prime Minister Rustam Azimov in November 2004, advising him that refusing to meet commercial obligations will lead other businesses to avoid Uzbekistan. As of the Embassys last contact with the Claimant in 2004, payment had yet to be rendered. The Claimant is no longer present in the country and has not been in contact with the Embassy.

16. (U) a. Claimant E

b. 2003

c. Claimant E purchased 51 percent of shares in an Uzbek fruit processing plant in May 2002 from the GOU state property committee (GKI). According to the Claimant, it made an initial investment payment of approximately \$30,000 in June 2002 and a second payment of approximately \$54,000 in October 2002. In November 2002, GKI returned the Claimants second payment and declared that it had cancelled the contract. This action, which the Claimant believes was motivated by GKIs desire to sell the plant to a Russian company, was compounded by a ruling on the matter against the claimant by a Tashkent court, causing the claimant to lose its initial investment.

Separately, the Claimant is involved in a joint venture, having purchased 33.3 percent of the shares of another American company. Due to a privatization decree, the GOU sold the governments portion of the venture, including the property on which the company operates. The Claimant offered to purchase the building with a purchasing price based on previous investments. However, the GKI

requested double the amount of the independently assessed value of the building at \$208,000.

In April 2003, the Ambassador sent a letter to Prime Minister Sultanov requesting that his staff investigate this issue. As of the Embassys last contact with the Claimant in 2005, the company had partially resolved some issues. The Claimant has not been in contact with the Embassy since 2005, and the Embassy has no information about the current status of the Claimant.

17. (U) a. Claimant F

b. 1996

c. Claimant F, a Swiss company with a U.S.-owned subsidiary, entered into a written contract with a state-owned enterprise to deliver 50,000 metric tons of Kazakh wheat. According to the Claimant, the wheat was delivered, but the Uzbek party never remitted payment. Despite repeated inquiries by the Claimant, at times facilitated by the U.S. Government, payment was not forthcoming. In 1997, the Claimant brought its case to the Grain and Feed Trade Association (GAFTA) under an arbitration proceeding required by the written contract controlling the grain purchase. GAFTA ruled on this matter, and ordered the Uzbek enterprise to pay the Claimant for the value of the shipment plus interest, or approximately \$18 million. An appeal of this ruling was denied in July 1998. The U.S. Embassy raised the issue with senior government officials, including the Deputy Prime Minister. As of the Embassys last contact with the Claimant in 2004, payment had not been rendered. The Claimant is no longer present in the country.

18. (U) None of the claimants have signed privacy waivers. The claimants are:

Claimant A: Ross Trading
Claimant B: Central Asia Seed Company (CASC)
Claimant C: Dow AgroSciences
Claimant D: Troy BioSciences Inc.
Claimant E: Vergest Ltd. and JV Uzbek Xerox Systems
Claimant F: ROMAK
NORLAND